

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARTIN J. WALSH,)	
)	
Secretary of Labor, U.S. Dept. of Labor,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:22 CV 420 CDP
)	
Larry Lonigro,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on a motion to approve consent judgment. Plaintiff filed this case and accompanying motion on April 11, 2022. The proposed consent judgment, which appears in the record as Document 3, recites that “Plaintiff and . . . Defendant Larry Lonigro, (“Defendant”) have appeared by counsel, and waive formal service of process of the Summons and Complaint, waive their Answer and any defenses which they may have, and agree to the entry of this Consent Order and Judgment without contest.” ECF 3 at 1. However, there is no indication in the record currently before the Court that defendant has counsel, as defendant signed the document on his own behalf and there is currently no entry of appearance by counsel on defendant’s behalf. Without any service of process on defendant or entry of appearance by defendant, the Court is unable to determine

whether defendant was (or will be) represented by counsel, or whether defendant knowingly waived his rights to service of process and to assert defenses to this claim as a pro se litigant.

Further complicating this problem is the fact that plaintiff's motion mistakenly recites that the motion to approve the consent judgment was served on defendant via the Court's electronic filing system. As this is incorrect, the Clerk's Office contact plaintiff's counsel and informed him of this error. In response, plaintiff filed a supplemental certificate of service attesting to service of the motion upon defendant by e-mail. This is an insufficient method of service.


The Court cannot sign off on the consent judgment at this time given these deficiencies in the record. Plaintiff must, at a minimum, provide notice of this action and the motion to approve consent judgment to defendant by mail so that the Court has a record that defendant has proper notice of these proceedings.¹ In addition, the Court will require some additional information from defendant addressing these issues of counsel and waiver before it can sign the proposed consent judgment. This information may be provided by declaration. The Court will provide plaintiff with thirty days to provide the Court with the necessary information or it will deny the motion for consent judgment without prejudice.

¹ Plaintiff should file a corrected certificate of service reflecting this fact within thirty (30) days of this Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED the Clerk of the Court shall serve a copy of this Memorandum and Order upon defendant Larry Lonigro at 14105 Airline Avenue, Unit 2, Urbandale, IA 50323-2571.

IT IS FURTHER ORDERED that plaintiff shall serve defendant with a copy of its complaint and motion to approve consent judgment by mail and file a corrected certificate of service and supplemental information required by this Memorandum and Order by no later than thirty (30) days from the date of this Memorandum and Order or the motion to approve consent judgment will be denied without prejudice.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 19th day of April, 2022.